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**Before the
Federal Communications Commission
Washington, DC 20054**

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In the Matter of

Closed Captioning Requirements for
Digital Television Receivers

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ET Docket No. 99-254
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: The Commission

**REPLY COMMENTS OF THE
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters ("NAB")¹ submits this reply to certain comments on the Commission's *Notice of Proposed Rulemaking* in this proceeding.² In the *Notice*, the Commission requested comment on technical proposals for the display of closed captions on digital television ("DTV") receivers and for the inclusion of closed captioning decoder circuitry in DTV receivers. Comments were submitted in response to this *Notice* by equipment manufacturers, providers of captioning services, organizations representing the deaf community, and video programming providers, and they address a wide array of technical and other issues relating to digital closed captioning. In this reply, NAB wants to emphasize that the Commission should refrain from imposing unnecessary and burdensome qualitative captioning requirements in the digital environment. NAB will also specifically address certain comments

¹ NAB is a nonprofit incorporated association of radio and television stations and broadcast networks. NAB serves and represents the American broadcasting industry.

² *Notice of Proposed Rulemaking* in ET Docket No. 99-254, FCC 99-180 (rel. July 15, 1999) ("*Notice*").

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objecting to the Commission's proposal to incorporate into its rules Section 9 of EIA-708-A, an industry standard that provides guidelines for the implementation of closed captioning services with DTV technology.³

I. The Commission Should Refrain From Imposing Qualitative Captioning Requirements In The Digital Environment.

In its comments, NAB agreed with the Commission's statement in the *Notice* that broadcasters should not be required to provide the extensive features of EIA-708 captioning. *See Notice* at ¶ 7 n.13. Because EIA-708 supports the "transport of standard analog captioning information" (*Notice* at ¶ 11), digital programming will be closed captioned, even without imposing an additional requirement that broadcasters provide captions having EIA-708 display features.⁴ Mandating that broadcasters provide captions with the more advanced display features of EIA-708 would, as explained in detail in NAB's comments, also impose a significant burden on broadcasters, especially during the DTV transition. For these reasons, NAB and other commenters agreed with the *Notice*'s position that broadcasters and other television program distributors should not be obligated to provide the extensive display features of EIA-708 captions.⁵

NAB also agrees with commenters who asserted that the *Notice*'s position is consistent with the Commission's previous determination not to impose standards governing the quality of

³ As discussed in NAB's comments, EIA-708-A has been superseded by EIA-708-B. For ease of reference, these reply comments will simply refer to EIA-708.

⁴ In a 1991 order, the Commission approved rules essentially incorporating EIA-608, an industry standard that described analog closed captioning and other data services transmitted on line 21 of the vertical blanking interval of the NTSC television signal. *See Report and Order* in GEN Docket No. 91-1, 6 FCC Rcd 2419 (1991).

⁵ *See* Comments of Home Box Office at 4; National Cable Television Association at 2-3.

closed captioning.⁶ In its earlier captioning orders, the Commission declined to adopt standards for the quality and accuracy of closed captioning. Specifically, the Commission noted the difficulty of establishing standards, the administrative burden that would be imposed on video programming providers and the Commission if such standards were adopted, and the marketplace incentives for programming providers to ensure the high quality of captioned programs.⁷ Adding to the cost of captions through the imposition of administratively or technically burdensome standards would result in captioning becoming too expensive for a greater percentage of programming, and, ultimately, would cause a reduction in the overall amount of captioned programming.⁸

NAB also notes that monitoring any requirement to provide the advanced display features of EIA-708 captioning would be particularly difficult and burdensome, as the choice of which types of EIA-708 features to use is essentially artistic. For all of these reasons, NAB agrees with other commenters that the Commission should continue to refrain from imposing qualitative caption requirements, including any requirement to provide the advanced features of EIA-708 captioning, on broadcasters and other video programming providers. Indeed, requiring the use of the extensive features of EIA-708 would have even less justification than adopting the accuracy and quality standards that the Commission previously rejected because, even without mandating

⁶ See Comments of National Cable Television Association at 3; Home Box Office at 4-5.

⁷ See *Report and Order* in MM Docket No. 95-176, 13 FCC Rcd 3272 at ¶¶ 222-224 (1997).

⁸ For example, if the cost of captioning increased due to the imposition of additional quality requirements, more video programming providers (especially smaller entities) might file requests with the Commission for an “undue burden” exemption from the captioning rules. In addition, as the cost of captioning increases, less programming will be captioned before program providers spend 2% of their annual gross revenues, the level at which program providers are permitted to cap their spending on captioning. See 47 C.F.R. § 79.1(d) & (f).

the provision of EIA-708 features, both analog and digital video programming will be fully captioned in accordance with the Commission's existing schedule.⁹

NAB strongly believes, however, that broadcasters and other video programming providers (especially those with relatively greater resources) will want to provide captioning with the extensive capabilities of EIA-708, once the necessary equipment becomes widely available. In addition, the amount of captioned programming with the advanced features of EIA-708 will increase over time, as programming providers become more familiar with DTV generally and with the range of advanced features available with digital closed captioning specifically. Because, as the Commission has previously stated, "it is better to allow the competitive market forces to establish standards" for captioning quality,¹⁰ the Commission should refrain from mandating in this proceeding the provision of captions with the more advanced display features of EIA-708.¹¹

II. Particularly During The Transition To Digital Television, DTV Receivers And Set-Top Converter Boxes Must Be Able To Utilize Analog Caption Data Properly.

As discussed in our comments, NAB believes that, for the digital closed captioning system to function properly, DTV receivers and set-top converter boxes ("STBs") must meet

⁹ See *Report and Order* in MM Docket No. 95-176, 13 FCC Rcd 3272 (1997), *recon. granted in part, Order on Reconsideration*, 13 FCC Rcd 19973 (1998).

¹⁰ *Report and Order* in MM Docket No. 95-176, 13 FCC Rcd 3272 at ¶ 224 (1997).

¹¹ If the Commission were, however, to impose specific qualitative standards for digital closed captioning (such as requiring the provision of EIA-708 advanced display features), then the burdens placed on broadcasters and other video programming providers would increase significantly. For example, a majority of programming during at least the initial years of the DTV transition will be up-converted from analog to digital, and it would be onerous for broadcasters to recaption those programs (which already have analog captions) in a format with the more extensive features of EIA-708. Thus, were the Commission to adopt such a rule, NAB would agree with those commenters who urged the Commission to adopt a separate, longer transition schedule for the captioning of digital programming. See Comments of Home Box Office of 5-9; National Cable Television Association at 4-5.

certain technical standards. In particular, NAB urges the Commission to require digital STBs to pass through, unaltered, all of the analog captioning data contained in DTV programs to the devices (*e.g.*, television sets and VCRs) connected to the analog output of the STBs. As explained in NAB's comments, if digital STBs do not properly encode with analog caption data the NTSC output sent to analog receivers, then many existing home electronic devices will not function as intended and considerable consumer confusion will be engendered. NAB reemphasizes here the importance of requiring digital STBs to properly encode their NTSC output with analog caption data, and notes that several other commenters agreed with NAB's position.¹²

III. The Commission Should Reject Arguments Opposing The Adoption Of EIA-708 Based On The Incompatibility Of Existing Digital Cable Equipment.

In its comments, General Instrument Corporation ("GI") stated that adoption of the *Notice's* proposals regarding the use of EIA-708 would render obsolete a large deployed base of digital cable equipment, which can only process EIA-608 captions and which cannot be upgraded to support EIA-708 technology.¹³ Accordingly, GI asserted that the Commission should focus not just on adopting technical standards for the display of captions on new digital televisions, but rather should work to ensure backward compatibility with the deployed base of digital cable encoding and decoding equipment that was manufactured in accordance with cable industry technical standard DVS-157.¹⁴ GI also proposed that the Commission require

¹² See Comments of WGBH Educational Foundation at 9; Thomson Consumer Electronics, Inc. at 10; Toshiba America Consumer Products, Inc. at 2; VITAC Corporation at 4.

¹³ GI explained that this equipment carries and processes captions in accordance with technical standard DVS-157 developed by the Society of Cable Telecommunications Engineers, Inc.

¹⁴ In its comments, the National Cable Television Association ("NCTA") similarly noted that the "standard proposed in the *Notice* for digital television sets would not be compatible with the DVS-157 standard used by the cable industry today," and argued that the "Commission should

broadcasters to not only carry captions in accordance with the ATSC DTV standard and EIA-608, but to also carry captions in the format specified in DVS-157. Finally, GI asserted that adoption of EIA-708 is not necessary to enable consumers to customize the display of closed captions, and, thus, the Commission should not incorporate EIA-708 into its rules.

In NAB's opinion, the logic behind GI's arguments is flawed and its conclusions are incorrect. GI's comments are also contrary to the spirit and intent of this and other Commission proceedings on closed captioning and digital television. Specifically, this proceeding is focused on closed captioning in a DTV environment and making DTV accessible to deaf and hard of hearing consumers. Digital television, in this context and as referenced in the *Notice* (at ¶ 5 and note 10), refers expressly to television signals that comply with the ATSC digital television standard (A/53), as previously adopted by the Commission.¹⁵ While DVS-157 does refer to carriage of closed captions for digital television (using MPEG-2 video), it is limited to digitized *NTSC* signals, and does not even apply to true DTV. Moreover, the Advanced Television Systems Committee published A/53, including the portion that provides for carriage of closed captions, in September of 1995, prior to the issuance of DVS-157. In fact, DVS-157 was first issued in July 1998, revised in October 1998, and gained final approval only in March of this year. GI's description of the DVS-157 standard as "well established" is therefore questionable, especially considering that A/53 was approved several years earlier and adopted by the Commission before DVS-157 was issued. For these reasons, GI's and NCTA's suggestion that the Commission should ensure backward compatibility with such a standard is patently absurd.

ensure that any rules its adopts here take into account issues of backward compatibility with existing equipment." Comments of NCTA at 6-7.

¹⁵ See *Fourth Report and Order* in MM Docket No. 87-268, 11 FCC Rcd 17771 (1996).

Indeed, NAB believes that the cable industry created for itself the dilemma of having a deployed base of incompatible digital equipment. DVS-157 was intended to define a standard method for the carriage of vertical blanking interval (“VBI”) information in digital NTSC video so as to facilitate the remodulation of closed captions and other signals onto the VBI of the analog NTSC output of digital cable set-top converter boxes. In crafting DVS-157, the Society of Cable Telecommunications Engineers, Inc. (“SCTE”) built upon a proprietary system developed by GI and used in the cable industry. SCTE could, however, have structured the DVS-157’s data syntax to match the already approved A/53 DTV standard and still support the functionality needed for the cable environment, thereby enabling devices designed to handle digitized NTCS signals to also work for DTV. That SCTE (with full participation by GI) failed to do this given their full knowledge of the existing DTV standards cannot now be cited as a valid reason for altering the Commission’s policies regarding DTV and closed captioning. Rather than expecting the Commission to now change its established DTV policies, GI and other cable equipment manufacturers could build their new products in accordance with A/53 or design them to process both DVS-157 and A/53 captions, thus ensuring forward compatibility with DTV.

In sum, GI’s and NCTA’s comments refer to technology based on a standard that is simply not applicable to ATSC DTV. NAB therefore urges the Commission to ignore these comments because they are moot and not relevant to a proceeding focusing on advanced closed captioning in the DTV environment.

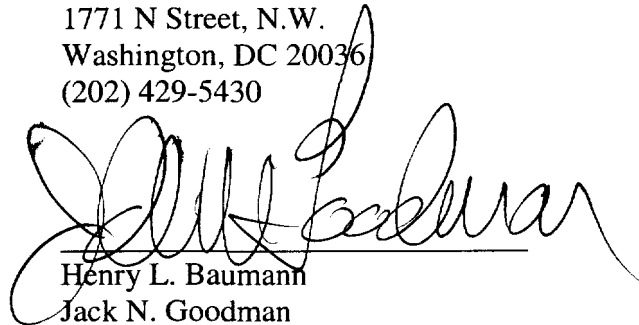
IV. Conclusion

The Commission should reaffirm in this proceeding its previous determinations not to impose standards governing the quality of closed captioning, and should refrain from mandating the provision of captions with the more extensive display features of EIA-708, at least during the DTV transition. Particularly during this transition, the Commission must ensure that DTV receivers and set-top converter boxes will be able to utilize analog caption data properly. The Commission must also reject comments opposing the adoption of EIA-708 based on a technology standard that is not even applicable to ATSC digital television.

Respectfully submitted,

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A large, stylized handwritten signature in black ink, appearing to read 'H. Baumann', is written over a horizontal line.

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November 15, 1999

CERTIFICATE OF SERVICE

I, Kimberly Washington, Legal Secretary for the National Association of Broadcasters, hereby certifies that a true and correct copy of the foregoing Reply Comments of the National Association of Broadcasters was sent this 15th day of November, 1999, by first-class mail, postage prepaid, to the following:

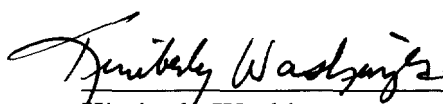
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